

ARTICLE APPEARED
PAGE 664

NATION
1 June 1985

STAT

DISPATCHES.

■ INTELLIGENCE: The Gag Is On

Last October, Samuel Morison, a civilian employee of the U.S. Naval Intelligence Support Center, was arrested for providing American satellite photographs of a Soviet aircraft carrier under construction to *Jane's Defence Weekly*, a London magazine. With the Navy's knowledge, Morison had been moonlighting as U.S. editor of *Jane's Fighting Ships*, a sister publication of the weekly.

The Reagan Administration seized on the case as an opportunity to deter civil servants from leaking classified information to the press. Morison is charged under the 1917 Espionage Act; the only previous government employee prosecuted under that law was Daniel Ellsberg, in the Pentagon papers affair. (The charges were dismissed because of government misconduct.) Although Morison's trial is not scheduled to begin until October 8, the Justice Department may have already achieved one dangerous precedent.

The government demanded that in return for access to relevant classified material under discovery procedures, the defense counsel must obtain a security clearance. That means undergoing a full background investigation, signing releases to permit access to their F.B.I. files and providing detailed personal information. Morison's defense counsel refused, citing the 1980 Classified Information Procedures Act, which governs the disclosure of classified information in pretrial discovery proceedings.

In response, the government obtained an order from Federal District Court Judge Joseph H. Young requiring Morison's defense counsel to sign a document pledging that he would not disclose "any classified national security information or documents . . . unless specifically authorized in writing to do so by an authorized representative of the U.S. government."

The gag order is so sweeping that it applies to information obtained from public sources even after the trial is over, including newspaper articles about satellite intelligence gathering, if the government deems them classified. Morison's attorneys have refused to agree to those terms. If not overturned on appeal, the order will essentially place a lifetime gag order on anyone associated with the Morison trial. Of more immediate consequence, it would make Morison's defense considerably more difficult, because his attorneys would be barred from talking to potential expert witnesses like former intelligence officials, academics and journalists.

The Justice Department regards the Morison case as the opening wedge for an official secrets act. If he is convicted with the help of the gag order, the door will be opened for further Espionage Act prosecutions of government employees who go to the media with stories about wrongdoing in their agencies. Recently, the Central Intelligence Agency floated a trial balloon—a proposal for a law that would accomplish this objective. The Administration later killed the proposal, but it may introduce some kind of legislation in the future. In the meantime, it is seeking to make the Morison case a precedent that will accomplish the same thing in the courts.